

	U.S. ENVIRONMENTAL PROTECTION AGENCY Assistance Amendment		GRANT NUMBER (FAIN): 00J50501	DATE OF AWARD
			MODIFICATION NUMBER: 3	02/06/2015
			PROGRAM CODE: DE	MAILING DATE
			TYPE OF ACTION No Cost Amendment	02/06/2015
			PAYMENT METHOD:	ACH# X0069
RECIPIENT TYPE: Indian Tribe			Send Payment Request to: Las Vegas Finance Center FAX # 702-798-2423	
RECIPIENT: Makah Indian Tribe of the Makah Indian Reservation P.O. Box 115 Neah Bay, WA 98357 EIN: [REDACTED]			PAYEE: Makah Indian Tribe of the Makah Indian Reservation, Washington P.O. Box 115 Neah Bay, WA 98357	
PROJECT MANAGER Dana Sarff P.O. Box 115 Neah Bay, WA 98357 E-Mail: (b) (6) Phone: 360-645-3151		EPA PROJECT OFFICER Lucita Valiere 1200 Sixth Avenue, Suite 900, AWT-150 Seattle, WA 98101 E-Mail: Valiere.Lucita@epamail.epa.gov Phone: 206-553-8087		EPA GRANT SPECIALIST Cathy Reese 1200 Sixth Ave., Suite 900, OMP-173 Seattle, WA 98101 E-Mail: Reese.Cathy@epa.gov Phone: 206-553-6286
PROJECT TITLE AND EXPLANATION OF CHANGES Makah Sustainable Fishing Fleet Project This amendment makes the following changes to the agreement: 1) Approves the revised Workplan dated 1/22/2015; 2) Extends the project/budget periods to 9/30/2015; and 3) Updates one Administrative Condition.				
BUDGET PERIOD 10/01/2011 - 09/30/2015		PROJECT PERIOD 10/01/2011 - 09/30/2015		TOTAL BUDGET PERIOD COST \$957,767.00
			TOTAL PROJECT PERIOD COST \$957,767.00	
NOTICE OF AWARD				
Based on your Application dated 09/07/2011 including all modifications and amendments, the United States acting by and through the US Environmental Protection Agency (EPA) hereby awards \$0. EPA agrees to cost-share 78.31% of all approved budget period costs incurred, up to and not exceeding total federal funding of \$750,000. Recipient's signature is not required on this agreement. The recipient demonstrates its commitment to carry out this award by either: 1) drawing down funds within 21 days after the EPA award or amendment mailing date; or 2) not filing a notice of disagreement with the award terms and conditions within 21 days after the EPA award or amendment mailing date. If the recipient disagrees with the terms and conditions specified in this award, the authorized representative of the recipient must furnish a notice of disagreement to the EPA Award Official within 21 days after the EPA award or amendment mailing date. In case of disagreement, and until the disagreement is resolved, the recipient should not draw down on the funds provided by this award/amendment, and any costs incurred by the recipient are at its own risk. This agreement is subject to applicable EPA regulatory and statutory provisions, all terms and conditions of this agreement and any attachments.				
ISSUING OFFICE (GRANTS MANAGEMENT OFFICE)			AWARD APPROVAL OFFICE	
ORGANIZATION / ADDRESS EPA Region 10 Mail Code: OMP-173 1200 Sixth Avenue, Suite 900 Seattle, WA 98101			ORGANIZATION / ADDRESS U.S. EPA, Region 10 Office of Air Waste and Toxics 1200 Sixth Avenue, Suite 900 Seattle, WA 98101	
THE UNITED STATES OF AMERICA BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY				
Digital signature applied by EPA Award Official Cathy Reese - EPA Grant Specialist				DATE 02/06/2015

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FUNDS	FORMER AWARD	THIS ACTION	AMENDED TOTAL
EPA Amount This Action	\$ 750,000	\$ 0	\$ 750,000
EPA In-Kind Amount	\$ 0	\$	\$ 0
Unexpended Prior Year Balance	\$ 0	\$	\$ 0
Other Federal Funds	\$ 0	\$	\$ 0
Recipient Contribution	\$ 0	\$	\$ 0
State Contribution	\$ 0	\$	\$ 0
Local Contribution	\$ 0	\$	\$ 0
Other Contribution	\$ 207,767	\$ 0	\$ 207,767
Allowable Project Cost	\$ 957,767	\$ 0	\$ 957,767

Assistance Program (CFDA)	Statutory Authority	Regulatory Authority
66.039 - National Clean Diesel Funding Assistance Program (B)	Energy Policy Act 2005 Public Law 109-58	40 CFR PART 31

[illegible]

Budget Summary Page

Table A - Object Class Category (Non-construction)	Total Approved Allowable Budget Period Cost
1. Personnel	\$70,439
2. Fringe Benefits	\$21,642
3. Travel	\$4,800
4. Equipment	\$0
5. Supplies	\$2,652
6. Contractual	\$858,234
7. Construction	\$0
8. Other	\$0
9. Total Direct Charges	\$957,767
10. Indirect Costs: % Base	\$0
11. Total (Share: Recipient <u>21.69</u> % Federal <u>78.31</u> %.)	\$957,767
12. Total Approved Assistance Amount	\$750,000
13. Program Income	\$0
14. Total EPA Amount Awarded This Action	\$0
15. Total EPA Amount Awarded To Date	\$750,000

Administrative Conditions

Administrative condition #18 is updated as follows:

18. UTILIZATION OF SMALL, MINORITY AND WOMEN'S BUSINESS ENTERPRISES (MBE/WBE)

GENERAL COMPLIANCE, 40 CFR, Part 33

The recipient agrees to comply with the requirements of EPA's Disadvantaged Business Enterprise (DBE) Program for procurement activities under assistance agreements, contained in 40 CFR, Part 33.

MBE/WBE REPORTING, 40 CFR, Part 33, Subpart E

MBE/WBE reporting is required in annual reports. Reporting is required for assistance agreements where there are funds budgeted for procuring construction, equipment, services and supplies, including funds budgeted for direct procurement by the recipient or procurement under subwards or loans in the "Other" category that exceed the threshold amount of \$150,000., including amendments and/or modifications.

Based on EPA's review of the planned budget, this award meets the conditions above and is subject to the Disadvantaged Business Enterprise (DBE) Program reporting requirements. However, if recipient believes this award does not meet these conditions, it must provide a justification and budget detail within 21 days of the award date clearly demonstrating that, based on the planned budget, this award is not subject to the DBE reporting requirements to Region 10 DBE Coordinator.

The recipient agrees to complete and submit a "MBE/WBE Utilization Under Federal Grants, Cooperative Agreements and Interagency Agreements" report (EPA Form 5700-52A) on an annual basis. All procurement actions are reportable, not just that portion which exceeds \$150,000.

When completing the annual report, recipients are instructed to check the box titled "annual" in section 1B of the form. For the final report, recipients are instructed to check the box indicated for the "last report" of the project in section 1B of the form. Annual reports are due by October 30th of each year. Final reports are due by October 30th or 90 days after the end of the project period, whichever comes first.

The reporting requirement is based on total procurements. Recipients with expended and/or budgeted funds for procurement are required to report annually whether the planned procurements take place during the reporting period or not. If no budgeted procurements take place during the reporting period, the recipient should check the box in section 5B when completing the form.

The current EPA Form 5700-52A can be found at the EPA Office of Small Business Program's Home Page at http://www.epa.gov/osbp/dbe_reporting.htm.

This provision represents an approved deviation from the MBE/WBE reporting requirements as described in 40 CFR, Part 33, Section 33.502; however, the other requirements outlined in 40 CFR Part 33 remain in effect, including the Good Faith Effort requirements as described in 40 CFR Part 33 Subpart C, and Fair Share Objectives negotiation as described in 40 CFR Part 33 Subpart D and explained below.

SIX GOOD FAITH EFFORTS, 40 CFR, Part 33, Subpart C

Pursuant to 40 CFR, Section 33.301, the recipient agrees to make the following good faith efforts whenever procuring construction, equipment, services and supplies under an EPA financial assistance agreement, and to require that sub-recipients, loan recipients, and prime contractors also comply. Records documenting compliance with the six good faith efforts shall be retained:

(a) Ensure DBEs are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State and Local and Government recipients, this will include placing DBEs on solicitation lists and soliciting them whenever they are potential sources.

(b) Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of 30 calendar days

before the bid or proposal closing date.

(c) Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. For Indian Tribal, State and local Government recipients, this will include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.

(d) Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually.

(e) Use the services and assistance of the SBA and the Minority Business Development Agency of the Department of Commerce.

(f) If the prime contractor awards subcontracts, require the prime contractor to take the steps in paragraphs (a) through (e) of this section.

CONTRACT ADMINISTRATION PROVISIONS, 40 CFR, Section 33.302

The recipient agrees to comply with the contract administration provisions of 40 CFR, Section 33.302.

BIDDERS LIST, 40 CFR, Section 33.501(b) and (c)

Recipients of a Continuing Environmental Program Grant or other annual reporting grant, agree to create and maintain a bidders list. Recipients of an EPA financial assistance agreement to capitalize a revolving loan fund also agree to require entities receiving identified loans to create and maintain a bidders list if the recipient of the loan is subject to, or chooses to follow, competitive bidding requirements. Please see 40 CFR, Section 33.501 (b) and (c) for specific requirements and exemptions.

FAIR SHARE OBJECTIVES, 40 CFR, Part 33, Subpart D

1. For Grant Awards \$250,000 or Less

This assistance agreement is a Technical Assistance Grant (TAG); or the award amount is \$250,000 or less; or the total dollar amount of all of the recipient's financial assistance agreements from EPA in the current Federal fiscal year is \$250,000 or less. Therefore, the recipient of this assistance agreement is exempt from the fair share objective requirements of 40 CFR, Part 33, Subpart D, and is not required to negotiate fair share objectives/goals for the utilization of MBE/WBEs in its procurements.

2. For Recipients Accepting Goals

A recipient must negotiate with the appropriate EPA award official, or his/her designee, fair share objectives for MBE and WBE participation in procurement under the financial assistance agreements.

In accordance with 40 CFR, Section 33.411 some recipients may be exempt from the fair share objectives requirements as described in 40 CFR, Part 33, Subpart D. Recipients should work with their DBE coordinator, if they think their organization may qualify for an exemption.

Accepting the Fair Share Objectives/Goals of Another Recipient

The dollar amount of this assistance agreement, or the total dollar amount of all of the recipient's financial assistance agreements in the current federal fiscal year from EPA is \$250,000, or more. The recipient accepts the applicable MBE/WBE fair share objectives/goals negotiated with EPA. The Region 10 fair share objectives/goals can be found: http://www.epa.gov/osbp/pdfs/r10_fair_share_goals.pdf.

By signing this financial assistance agreement, the recipient is accepting the fair share objectives/goals and attests to the fact that it is purchasing the same or similar construction, supplies, services and equipment, in the same or similar relevant geographic buying market.

Negotiating Fair Share Objectives/Goals, 40 CFR, Section 33.404

The recipient has the option to negotiate its own MBE/WBE fair share objectives/goals. If the recipient wishes to negotiate its own MBE/WBE fair share objectives/goals, the recipient agrees to submit proposed MBE/WBE objectives/goals based on an availability analysis, or disparity study, of qualified MBEs and WBEs in their relevant geographic buying market for construction, services, supplies and equipment.

The submission of proposed fair share goals with the supporting analysis or disparity study means that the recipient is **not** accepting the fair share objectives/goals of another recipient. The recipient agrees to submit proposed fair share objectives/goals, together with the supporting availability analysis or disparity study, to the Regional MBE/WBE Coordinator within 120 days of its acceptance of the financial assistance award. EPA will respond to the proposed fair share objective/goals within 30 days of receiving the submission. If proposed fair share objective/goals are not received within the 120 day time frame, the recipient may not expend its EPA funds for procurements until the proposed fair share objective/goals are submitted.

3. For Recipients with Established Goals

The recipient must negotiate with the appropriate EPA award official, or his/her designee, fair share objectives for MBE and WBE participation in procurement under the financial assistance agreements.

In accordance with 40 CFR, Section 33.411 some recipients may be exempt from the fair share objectives requirements described in 40 CFR, Part 33, Subpart D. Recipients should work with their DBE coordinator, if they think their organization may qualify for an exemption.

Current Fair Share Objective/Goal

The dollar amount of this assistance agreement or the total dollar amount of all of the recipient's financial assistance agreements in the current federal fiscal year from EPA is \$250,000, or more. The Region 10 fair share objectives/goals can be found: http://www.epa.gov/osbp/pdfs/r10_fair_share_goals.pdf.

Negotiating Fair Share Objectives/Goals

In accordance with 40 CFR, Part 33, Subpart D, established goals/objectives remain in effect for three fiscal years unless there are significant changes to the data supporting the fair share objectives. The recipient is required to follow requirements as outlined in 40 CFR Part 33, Subpart D when renegotiating the fair share objectives/goals.

4. For DWSRF, CWSRF and BROWNFIELDS RLF Recipients ONLY

Objective/Goals of Loan Recipients

As a recipient of an EPA financial assistance agreement to capitalize revolving loan funds, the recipient agrees to either apply its own fair share objectives negotiated with EPA to identified loans using a substantially similar relevant geographic market, or negotiate separate fair share objectives with its identified loan recipients. These separate objectives/goals must be based on demonstrable evidence of the availability of MBEs and WBEs in accordance with 40 CFR, Part 33, Subpart D.

The recipient agrees that if procurements will occur over more than one year, the recipient may choose to apply the fair share objective in place either for the year in which the identified loan is awarded or for the year in which the procurement action occurs. The recipient must specify this choice in the financial assistance agreement, or incorporate it by reference therein.

R10 DBE Coordinator and Where to Send Report

Greg Luchey at (206) 553-2967 or email: Luchey.Greg@epa.gov. The coordinator can answer any MBE/WBE reporting questions you may have. MBE/WBE reports should be sent to the EPA Region 10, Grants and Interagency Agreements Unit, 1200 Sixth Avenue, Suite 900, OMP-173, Seattle, WA 98101 or FAX to (206) 553-4957.

All Other Administrative Conditions Remain the Same

Programmatic Conditions

All Programmatic Conditions Remain the Same

END OF DOCUMENT

Valiere, Lucita

From: Dana Sarff <dana.sarff@makah.com>
Sent: Wednesday, January 14, 2015 10:44 AM
To: Valiere, Lucita
Cc: (b) (6) seraphina.peters@makah.com
Subject: EPA DERA Makah Sustainable Fishing Fleet Project

Hi Lucita,

Happy New Year and we hope you had a pleasant holiday season.

We have now completed the eighth vessel on our list and are staged for the last vessel. The Sonny Boy owners, Kean and Tammy Ward, have just completed application to HomePort funding to assist them with a portion of their match. Paperwork and a check are forthcoming. However, the boatyard has indicated, and we are in agreement, that because of the age and size of this vessel, it will likely take more time to complete than we have left. Pursuant to this we are asking for another "no cost" extension to complete this last vessel. Although three months should do, we would like to ask for six months. It is also likely that we will come in under budget for all nine vessels, and we are in agreement that if we can, we would like to credit participants with the remaining funds. This will have the end effect of lowering their initial match of 40% +. Although the 25% is unattainable, we think we can bring it down a bit. We have not committed to this until we get approval and all costs are in, however this is what we are thinking at this point. This would be a good move for EPA, the Makah Tribe and Makah Fisheries, and would make up for somewhat of a public relations challenge (is fiasco a better word?) which we have faced since the outset.

Please advise,

As always, thanks for your support and assistance.

Thanks,

Dana Sarff
Makah Fisheries/Environmental Division Manager
P.O. Box # 115
Neah Bay, WA 98357

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